

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
EASTERN DIVISION**

Charlee Lang, et al.,)
)
Plaintiffs,) **ORDER**
)
vs.) Case No. 3:23- cv-19
)
Oak Grove Lutheran School, through its)
Board of Regents, et al.,)
)
Defendants.)

Defendants Oak Grove Lutheran School, Michael Slette, Brent Wolf, and Aimee Zachirson (together, the “Oak Grove Defendants”) filed a motion to dismiss for failure to state a claim pursuant to Federal Rule of Civil Procedure 12(b)(6) on April 24, 2023. Doc. No. 14. Defendant Daniel Stoa filed a similar motion to dismiss the next day. Doc. No. 23. In response to those motions, Plaintiffs Charlee Lang and Gregory Lang filed an amended complaint on May 15, 2023, as permitted by Federal Rule of Civil Procedure 15(a). Doc. No. 28.

Rule 15(a) of the Federal Rules of Civil Procedure states, in relevant part:

(a) Amendments Before Trial.

(1) Amending as a Matter of Course. A party may amend its pleading once as a matter of course within:

(A) 21 days after serving it, or

(B) if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier.

Fed. R. Civ. P. 15(a). The advisory committee notes state, “A responsive amendment may avoid the need to decide the motion or reduce the number of issues to be decided[.]” Id. advisory committee’s note to 2009 amendment. Here the Plaintiffs filed the amended complaint in response

to the two Rule 12(b)(6) motions to dismiss per Rule 15(a)(1)(B). Procedurally, the amended complaint moots the original motions to dismiss, as those motions moved to dismiss the original complaint, which has now been amended and changed in response to the motions.

Given that, the Court **FINDS AS MOOT** the Oak Grove Defendants' motion to dismiss (Doc. No. 14) and **FINDS AS MOOT** Defendant Stoa's motion to dismiss (Doc. No. 23). Per Federal Rule of Civil Procedure 15(a)(3), all Defendants have 14 days from the date of this order to respond to the amended complaint. See Fed. R. Civ. P. 15(a)(3).

IT IS SO ORDERED.

Dated this 17th day of May, 2023.

/s/ Peter D. Welte

Peter D. Welte, Chief Judge
United States District Court